



Water Rights Curtailment in California's National Forests

Questions & Answers:

Q: Where is water rights curtailment occurring on the Eldorado National Forest?

A: Restrictions are in place where a well system is not available. Several hundred recreation cabins in the Placerville and Amador Ranger Districts; and four campgrounds in the Amador Ranger District (Caples Lake, Pardoes Point, Silver Lake East, and South Shore) are affected.

Q: Who is responsible for administering water rights law?

A: In California, water rights law is administered by the State Water Resources Control Board (often called simply the State Water Board). Within the State Water Board, the Division of Water Rights acts on behalf of the State Water Board for day to day matters. The State Water Board is the only agency with authority to administer water rights in California. Local governments, water districts, and the California Regional Water Quality Control Boards do not administer water rights. The State Water Board shares the authority to enforce water right laws with the state courts.

Q: Why does the State require water users to have a water right?

A: Water is protected for the use and benefit of all Californians. California's waters cannot be owned by individuals, groups, businesses, or governmental agencies. But permits, licenses, and registrations give individuals and others the right to beneficially use reasonable amounts of water.

Q. What is the difference between surface water and groundwater?

A. Surface water is all waters accessed through an intake pipe (lakes, streams, and springs). Groundwater is underground water accessed through a well.

Q: What is an appropriative water right?

A: Someone who takes water for use on non-riparian land or who uses water that would not be there under natural conditions on riparian land appropriates water. Water right

permits and licenses issued by the State Water Board and its predecessors are appropriative water rights.

Q: What areas of the state are currently impacted by the State's Executive Order on curtailment?

A: Many areas are impacted and the State can inform you of the entire list. To date, areas of the Forest Service that are impacted are within the Sacramento and San Joaquin River watersheds (which include corresponding tributaries).

Q. What about the other National Forests in California and their permit holders? Can they expect a curtailment request by the state?

A. It is possible that further water curtailments could be required on national forests, however, that question is best answered by the State of California.

Q. What about private landowners? Are they subject to Curtailment?

A. Yes, private landowners are subject to curtailment.

Q. How long will curtailment last?

A. Curtailment is likely to stay in effect until the drought subsides, although that question is best answered by the State of California.

Q: What types of Forest Service activities or uses will be curtailed?

A: Curtailment will impact resorts on FS lands, organized camps, Forest Service campgrounds, recreational residences, permitted grazing, communities and Forest Service facilities. Concessionaires who operate Forest Service campgrounds and day use sites will also likely be impacted.

Q: Will the Forest Service be asking for any exemptions?

A: Since there is no exemption for health and safety this year, anyone continuing to use surface waters is engaging in what is called "non-exempted continued diversion". The FS may ask for a minimal number of non-exempted continued diversions for specific health and safety reasons until alternate water delivery systems can be identified.

Q: Will fire suppression activities be curtailed this year?

A: No fire suppression activities are not part of the state's Curtailment Order. The U.S. Forest Service Pacific Southwest Region is fully prepared for the 2015 fire season. We'll be employing an aggressive initial attack strategy utilizing appropriate ground and air resources for wildfires that threaten communities and natural resources.

Q: Are there other areas where the state Curtailments may impact the Forest Service?

A: Specific Curtailment Orders and emergency regulations that apply to curtailment of diversions due to insufficient flows for specific fisheries may impact the Forest Service.

Q. Will Recreation Residence owners be compensated if they have to leave the premises because of water curtailment?

A. No, recreation residence owners will not be compensated if they must leave their recreation residences because of water curtailment. The Special Use Permit recreation residents hold is for the cabin structure on Forest Service land.

Q. Will there be any pro-rating or financial support to Special Use Permit holders who truck in water or use alternative water delivery systems to their residences?

A. No. The annual fee is the minimum fee for occupancy of National Forest System lands.

Q. Will Special Use Permits be suspended for certain types of activities?

A. No, special use permits will not be suspended. The Forest Service will review and possibly require operational changes to certain water uses that negatively impact the environment or public health and safety. These changes would be temporary during the drought.

Q. Why is there no Health and Safety exemption this year and what does that mean for holders of special use permits?

A. While a "health and safety exemption" was permitted last year, the drought has continued and conditions have worsened, so there is no exemption for health and safety at this time. Because water rights law is based on the "first in time, first in right" principle, lower priority water rights are curtailed first to allow higher priority water rights holders access to water. National Forest and SUP holders should consider alternative water and storage sources. These can include:

Developing storage facilities (e.g., water tanks) to store diverted water prior to curtailment periods.

Developing storage facilities for water brought in by truck.

Altering non-residential facilities during drought period (Day use areas and campgrounds use portable or pit toilets. Water trucked in or carried in by visitors.)

Developing Groundwater wells (currently will be very expensive!)

Q: Are you aware of other areas to be curtailed?

A: The Russian, Eel, Napa, and Scott Rivers may be subject to curtailment. For more information, please contact the state.

Q: What is Curtailment of Riparian Rights?

A: If water supplies are insufficient even with curtailment of all appropriative diversions, riparian diversions must be curtailed. A riparian right allows an owner of land adjoining a watercourse the right to the reasonable and beneficial use of water on the owner's land contiguous to the watercourse. A riparian right cannot be used for storage, and is limited to the natural flow of the watercourse. Among riparian rights, prior use does not establish a water right priority. If insufficient water is available to meet the needs of all riparian rights on a watercourse, each must reduce their diversion and use proportional.

Q: Where can I find a map of specific water rights?

A: The State's website has a map look up feature that allows people to find water rights by: ID number, County, watershed, stream, PLSS, and by owner and it allows people to query upstream and downstream. The website address is:

<http://waterrightsmaps.waterboards.ca.gov/ewrims/gisapp.aspx>

For more information, visit the California Division of Water Rights web page:

<http://www.swrcb.ca.gov/waterrights/>

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